IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1162 OF 2004

Sou. Mangal Raghunath Bhosale
And Others ..Petitioners
V/s
State of Maharashtra & another ..Respondents

Mr. A.A. Joshi, Advocate for the petitioners.

Mr. Ashok Tajane, Advocate for respondent NO.1.

Mrs. M.M. Deshmukh, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 22ND JANUARY, 2007.

P.C.

. Heard Mr. Joshi, learned Counsel for the petitioners and Mr. Ashok Tajane, learned Counsel for respondent No.1. Perused the impugned order passed by 3rd Additional Sessions Judge, Pandharpur.

2. Admittedly, petitioner No.1 is wife of respondent No.2 and petitioner Nos. 2 and 3 are their minor children. The petitioners had filed an application for maintenance in the year 1993, wherein

maintenance was granted at the rate of Rs. 250/- per month to the wife and at the rate of Rs. 125/- per month to each of the two children. In 1998 petitioners filed an application No. 16/1998 seeking enhancement in the maintenance amount. As per the order dated 5/3/1999, the maintenance was enhanced to Rs. 300/- per month for the wife and to Rs. 225/- per month for each of the two children. Exactly one year after that, the petitioners filed Criminal Misc. Application No. 109/2000 seeking further enhancement on the ground that the prices had increased four times and so the income of respondent No.2. After hearing the evidence, the learned Magistrate enhanced the maintenance to Rs. 1000/- per month for the wife and to Rs.700/-per month for each of the two children. Thus, it was increased to more than three times. Respondent No.2 challenged the said enhancement in Criminal Revision Application No.101/2002. The learned 3rd Additional Sessions Judge, Pandharpur allowed the revision application and slashed the enhancement to the tune of Rs.500/- per month for the wife and Rs. 300/- per month for each of the two children with effect from 26/7/2002 i.e. the date on which the learned Magistrate had passed the order. Being aggrieved by the said order the petitioners have

filed the present writ petition.

3. The learned Additional Sessions Judge has minutely considered the evidence placed on record by the petitioners. The learned Additional Sessions Judge rejected the contention of the petitioner that within a span of one or two years the prices had increased to four times. In fact, it is well known fact that after 1999 increase in prices was marginal and inflation was around 4% to 5%. The learned Additional Sessions Judge also noted that the documents, which were placed on record about the income from the sugar-cane crop of the land, were pertaining to the father of respondent No.2. In that income not only the father but even brother of respondent No. 2 has got share. It was contended by respondent that because of continuous litigations which he was facing, he has been driven out of the joint family and he is working as labourer and he was unable to pay such huge maintenance amount. In fact, the learned Additional Sessions Judge allowed the increase from Rs. 300/- to Rs.500/- per month towards the maintenance for the wife and from Rs. 225/- to Rs. 300/- per month for each of the two children. Thus, the total payment to the petitioners would be increased from

Rs. 750/- to Rs.1100/- per month within a span of three years. In my opinion, taking into consideration all the circumstances, the learned Sessions Judge has passed quit reasonable order and needs no interference.

4. The petition stands dismissed summarily.

5. The learned Counsel for respondent No.2 makes a statement that in a family arrangement some property has been already allotted to the petitioners and they have surrendered their right of maintenance. That question cannot be considered in the present petition, which is filed by the petitioners. If such compromise has taken place, respondent No.2 will be at liberty to move appropriate Court.

(J.H. BHATIA, J.)